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~~DOCKET FILE COPY DUPLICATE~~

February 14, 1994

*NOT ADMITTED IN D.C.

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

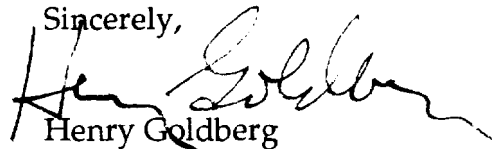
Re: GEN Docket No. 90-314
Ex Parte Presentation

Dear Mr. Caton:

On Thursday, February 10, Apple Computer, Inc. ("Apple") provided a copy of the attached documents to Chairman Reed Hundt and Ms. Karen Brinkman of his staff. Two copies of this presentation are hereby submitted for the public record in this proceeding, pursuant to 47 C.F.R. § 1.1206(a)(1). Due to the fact that the attached materials were provided to Chairman Hundt and Ms. Brinkman very late in the day, Apple was unable to file a copy with the Secretary on February 10, as required by the Commission's Rules, and therefore is submitting this notice on the first day the Commission is open following submission of the written presentation.

If there are any questions in this regard, please contact the undersigned.

Sincerely,


Henry Goldberg

cc: Chairman Reed Hundt
Karen Brinkman, Esq.

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OFFICE OF THE SECRETARY

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February 10, 1994

HAND-DELIVERED

The Hon. Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Room 802
Washington, D.C. 20554

Dear Mr. Chairman:

When you met last week with Ed Stead, the General Counsel of Apple Computer, you asked for a summary of the suggestions that Apple had made in the Commission's PCS proceeding regarding the responsible, but rapid, clearing of existing microwave stations from the 20 MHz unlicensed PCS band that has been allocated for asynchronous, or data, use. I have attached a brief summary of such suggestions and would be happy to provide more detail if you or Karen wish.

Thanks again for taking the time to meet with us.

Sincerely,


Henry Goldberg

Enclosure

cc: Karen Brinkman, Esq.

90-314 AND 92-9 RECONSIDERATION ITEMS

I. BAND ALLOCATION

Changes required:

- a) Designate 1910-1930 MHz for data ("asynchronous").

Because: This plan is the only one that provides at least 10 MHz for nomadic data devices (taking interference from adjacent channel stations into account). Nomadic devices can be deployed only after the last microwave link has been removed.

- b) Designate 1890-1910 MHz for voice ("isochronous") and (c) apply the same rules to the entire contiguous voice band.

Because: This would remove discriminatory band loading, reduce the number of microwave stations to be removed from the unlicensed voice band overall, provide better spectrum use without "partitions" to avoid, offer better protection from high-power licensed transmitters, and make coordination for early deployment of unlicensed voice products more likely to achieve.

At stake:

Data-PCS requires nationwide cleared band before first unit sold. Redesignation, with resulting reasonable time/cost/bandwidth, is necessary to start the industry and get industry funding of clearing.

PBXs can be deployed in almost all the country through proven coordination practices, and in remainder of country by relocating a few microwave stations.

II. BAND CLEARING AND COORDINATION

Changes required:

- a) Remove all references in the FCC Rules to "UTAM." Replace them by referencing a Commission-designated band clearing and coordination entity.

Because: UTAM has not yet been selected unconditionally and has not yet met — and it is not clear it can or will meet — the Commission's requirements.

- b) Clarify responsibilities of the selected band management entity. Require the structure, governance and practices of UTAM to reflect the interests of the industries that will use the band

Because: UTAM membership to date is a self-selected small group of companies, primarily those with voice interests. No computer company is a member. Apple is the only computer company participating consistently and the former NCR, which is now a division of ATT, has not participated independently in UTAM.

- c) Clarify rules and responsibilities for “early deployment” of coordinatable devices, including requiring advance notice (coordination) to microwave users and fail-safe transmit prohibition except where coordinated.

Because: Early deployment should be permitted only under conditions that provide protection for microwave users.

At stake: Although frequencies must be cleared nationwide for nomadic devices, UTAM has shown no inclination to do so and has concentrated only on early deployment of voice devices, such as PBXs, with a minimum of coordination to prevent interference to microwave.

III. MICROWAVE CLEARING PLAN

Changes required:

- a) Adopt a date certain, of one year after close of mandatory negotiation period for clearing all microwave stations from the data band, including vulnerable adjacent channel stations.
- b) Establish an OET/PRB task force (with NTIA as an *ex officio* member) for conflict resolution . Adopt Commission rules requiring all disputes to be resolved by Commission within six months of close of mandatory negotiation period.

Because: Without a timetable for clearing the last microwave link, providers of nomadic data equipment will not invest in band clearing and cannot make product deployment plans. Moreover, vulnerable microwave stations in adjacent channels must be accommodated on the unlicensed band-clearing timetable and not the longer timetable for clearing the PCS licensed bands.

- c) Apply a “reasonableness” requirement to all negotiations of moves of public safety stations, and do not expand the definition of such stations. Also provide for retuning of problematic public safety stations to nearby federal government bands.

Because: Public safety stations merit special consideration, but cannot remain in the nomadic data band. Retuning to the federal government bands provides a technically safe alternative.

IV. RETUNING

Changes required:

- a) Eliminate the ambiguous language that could be interpreted to prohibit “retuning” of microwave stations within the PCS band or to adjacent federal government bands.
- b) Encourage, even if not require, retuning or upgrading (and other frequency engineering measures) to be applied to microwave stations when all parties agree.

Because: Permitting station changes when all parties agree can provide flexibility for solving a variety of time, cost, and link reliability problems. This could make the band available to unlicensed PCS sooner.

V. TAX CERTIFICATES

Changes required:

- a) Clarify that tax certificates will be applicable for microwave relocation from the unlicensed band, similar to the provisions for the licensed band.
- b) Apply deadline so that tax certificates will be allowed only if agreement for relocation is reached during the mandatory negotiation period.

Because: The same arguments favoring the issuance of tax certificates are valid for all microwave relocation. Moreover, applying a deadline is an effort to achieve even more positive motivation for dispute resolution.